

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CORY LEE MCCARTNEY,

Petitioner,

v.

SUPERINTENDENT, S.C.I.
DALLAS, et al.,

Respondents.

No. 4:16-CV-01831

(Judge Brann)

(Magistrate Judge Carlson)

ORDER

APRIL 30, 2019

Cory Lee McCartney filed this 28 U.S.C. § 2254 petition asserting that the Pennsylvania Board of Probation and Parole violated his constitutional rights when it denied his application for parole and set a five-year future eligibility term.¹ On March 28, 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court deny McCartney's § 2254 petition on the grounds that (1) the denial of parole was well-supported and (2) setting a five-year future eligibility term was not arbitrary.² No timely objections were filed to this Report and Recommendation.

¹ Doc. 1.

² Doc. 11.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.³ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁴ This Court has reviewed the Report and Recommendation and has found no clear error on the face of the record. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 11) is **ADOPTED**;
2. McCartney’s 28 U.S.C. § 2254 petition (Doc. 1) is **DENIED**;
3. A certificate of appealability shall not issue; and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁴ 28 U.S.C. § 636(b)(1); Local Rule 72.31.